



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/518,837	03/03/2000	Frank D. Tuttle	800470	9750
23372 7590 11/09/2007 TAYLOR RUSSELL & RUSSELL, P.C. 4807 SPICEWOOD SPRINGS ROAD BUILDING TWO SUITE 250 AUSTIN, TX 78759			EXAMINER POINVIL, FRANTZY	
			ART UNIT 3692	PAPER NUMBER
			MAIL DATE 11/09/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/518,837

Applicant(s)

TUTTLE, FRANK D.

Examiner

Frantzy Poinvil

Art Unit

3692

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 1, 2, 10, 25, 43 and 44 are objected to because of the following informalities:

As per claim 1, line 14, "the" should be changed to - -said- -.

As per claim 2, line 10, "including" should read - -including- -. On line 12, "the" should read - -said- -. On line 10, "the" should be changed to - -said- -.

As per claim 25, line 10, "the" should be changed to - -said- -.

As per claim 43, line 7, "the" should read - -said- -.

As per claim 44, line 7, "rules" should read - -rules- -.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. Claims 1-46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 1, line 6, what are "computer-implemented mathematical equations"? On line 25, "a" should be changed to - -said- -.

As per claim 2, lines 5-6, what are "computer-implemented mathematical equations" ? On line 10, "a" should be changed to - -said- -. On line 13, "a" should be changed to -said- -.

Art Unit: 3692

On line 21, line “a” second occurrence should be changed to -said- -. On line 33, “a” should be changed to -said- -.

As per claim 4, line 5, “a” should be changed to -said- -.

As per claim 5, line 2, “a” should be changed to -said- -.

As per claim 14, line 2, “a” should be changed to -said- -.

As per claim 16, line 1, “a” should be changed to -said- -.

As per claim 22, line 9, what are “computer-implemented mathematical equations” ?

On line 12, “the state” lacks clear antecedent basis.

As per claim 25, line 5, what are “computer-implemented mathematical equations” ?

As per claim 32, line 3, “the state” lacks clear antecedent basis.

As per claim 43, line 4, what are “computer-implemented mathematical equations” ?

As per claim 44, line 3, “a” should be changed to -said- -.

Claims not specifically addressed are rejected based on their dependency.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 23, 24 and 46 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 23, 24 and 46 recite a software program embodied on a computer-readable

Art Unit: 3692

medium for performing various types of functions. Software or computer program not claimed as embodied in computer media executable by a processor or a computer are descriptive material per se are not statutory because they are neither physical "thing" nor statutory processes.

These software(s) as claimed do not define any structural and functional interrelationships with a general purpose computer for permitting the claimed functions to be realized. In contrast, a statutory claim would define structural and functional interrelationships between data structures or functional parts and a computer for performing the data functions to be realized. Thus claims 23, 24 and 46 are rejected as being non-statutory.

The software program as claimed does not recite as being embodied on a computer readable medium to be executed by a processor or a computer and therefore fails to recite a useful, concrete and tangible result.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (571) 272-6797. The examiner can normally be reached on Monday-Thursday from 7:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571) 272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Frantzy Poinvil
Primary Examiner
Art Unit 3692

FP
September 21, 2007